

## A Joint Statement by the Asian Human Rights Commission and other Thai NGOs

### **THAILAND: Human Rights Organizations urge Thai Government to criminalize torture as a crime, to take effective measure for witness protection and remedy the victims, and most importantly to develop independent investigation mechanism to end impunity**

**“Torture is a crime” Statement on International Day Against Torture**

For Immediate Release on June 26, 2011 *“Human Rights Organizations urge Thai Government to prevent and eliminate the use of torture by law enforcement officials in Thailand by implementing its obligation under UN Convention Against Torture to criminalize torture as a crime, to take effective measure for witness protection and remedy the victims, and most importantly to develop independent investigation mechanism to end impunity”*

Section 32 of the Constitution of the Kingdom of Thailand B.E. 2550 recognized the right to liberty, the right to life and prohibition of torture or brutal treatment or punishment by a cruel or inhumane means. In addition, Thailand is a Party to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which came into force for Thailand since November 1, 2007 which makes any action by the authorities by which severe pain or suffering is intentionally inflicted on a person with the purpose to force for confession or information, to intimidate or to punish the person, or for any other reason based on discrimination of any kind is “torture”. As the state party, Thailand has the obligation to prevent and punish act of torture. However, Thailand has not implemented its obligation to any measures, whether legislative, executive or judicial in order to prevent acts of torture, to protect witnesses, to remedy victims of torture, and most of all, measure to punish offenders.

Torture and cruel treatment is still exists in Thailand and still being used by law enforcement officers, whether under an emergency situation in the southern border provinces, emergency situations arising from political turmoil, or under enforcement of law in normal time. Moreover, tortured victim, who has filed complaint alleged that he was tortured by police to obtain confessions in the case of a gun robbery in Pileg Military Camp in Narathiwat Province in 2004, was pressed charge by the officers on charges of false police report after the Anti- Corruption Commission concluded that there was not enough evidence on torture complaint. The said victim was also a client and witness in cases of the enforced disappeared lawyer Somchai Neelapaijit who defended him in the gun robbery case.

As mark International Day against Torture, today Human rights organizations as listed below urge the Thai government to accelerate the fulfillment of its obligations to prevent torture by taking legislative measures to enact, amend of laws and to take effective measure to

1. Criminalize offense of torture as a specific offense and determine appropriate penalty for such offense because “torture by state officials” is not yet a criminal offence under Thai law.
2. Develop independent and impartial mechanism for the investigation into alleged act of torture. At present, the perpetrators are not brought to justice and impunity continues because the offenders are often associated with investigation body in ways that undermine the independence and impartiality of the investigation.
3. Take effective measure for witness protection in accordance with safety standards. Conduct training and increase the number of officials. Allocate appropriate funding to make the witness protection system truly effective.
4. Develop effective measure to provide remedy to victims of torture, both physically and psychologically especially for psychological rehabilitation. Also to develop forensic psychiatry equipped with medical knowledge and expertise to monitor the post psychological trauma effect on the victim such as stress and anxiety after a bad experience.
5. Take effective measure to guarantee easy access, prompt, impartial and fair investigation of allegation of torture. Also to ensure protection from backlash countersue by alleged offender against complainant as this rights to petition is guarantee by the Constitution section. 62 that a person shall have the right to follow up, and to request for

examination of, the performance of duties of a person holding political position, State agency and State officials. And a person who provides information related to the performance of duties of a person holding political position, State agency and State officials to the organisation examining the misuse of State power or State agency shall be protected. But in practice, torture survivor is not protected and still being countersue by alleged offender while state mechanism fails to bring perpetrator to justice.

"Torture is a crime." With respect to human rights and freedom

Human Rights Lawyers Association (HRLA)

Cross Cultural Foundation (CrCF) Union for Civil Liberties (UCL)

Asian Human Rights Commission (AHRC) Community Resources Centre (CRC)

Justice for Peace Foundation (JPF) Stateless Watch

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